

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

IN RE: JUUL LABS, INC., MARKETING SALES
PRACTICE AND PRODUCTS LIABILITY
LITIGATION

3:19-md-02913 (WHO)

Hon. William H. Orrick

*This Document Relates to All Plaintiffs Identified in
Exhibit A*

**JLI'S NOTICE OF MOTION TO DISMISS WITHOUT PREJUDICE FOR FAILURE TO
SUBMIT DISCOVERY REQUIRED BY CASE MANAGEMENT ORDER NO. 8**

PLEASE TAKE NOTICE that on March 19, 2021, or as soon thereafter as this matter may be heard, in Courtroom 2 of this Court, located at 450 Golden Gate Avenue, 17th Floor, San Francisco, California, Defendant Juul Labs, Inc. ("JLI") will and hereby does move for the Court to dismiss without prejudice plaintiffs identified in Exhibit A to JLI's Motion for failure to submit discovery required by Case Management Order No. 8. The Motion is based on this Notice of Motion and the following Motion to Dismiss.

JLI's Notice of Motion to Dismiss Without Prejudice
For Failure to Submit Discovery Required
By Case Management Order No. 8

1 Dated: February 5, 2021

/s/ Lauren V. Purdy/

2 Lauren V. Purdy, FL Bar 93943
3 GUNSTER, YOAKLEY & STEWART, P.A.
4 1 Independent Drive, Suite 2300
5 Jacksonville, FL 32202
6 Telephone: (904) 350-7168
7 Facsimile: (904) 354-2170
8 lpurdy@gunster.com
9 (pro hac vice)

/s/ Renee D. Smith/

8 Renee D. Smith
9 KIRKLAND & ELLIS LLP
10 300 North LaSalle
11 Chicago, IL 60654-3406
12 Telephone: (312) 862-2000
13 Facsimile: (312) 862-2200
14 Renee.Smith@kirkland.com

13 Peter A. Farrell, P.C.
14 KIRKLAND & ELLIS LLP
15 1301 Pennsylvania Ave., N.W.
16 Washington, DC 20004
17 Telephone: (202) 389-5000
18 Facsimile: (202) 389-5200
19 Peter.farrell@kirkland.com

18 Gregory P. Stone (SBN 78329)
19 gregory.stone@mto.com
20 Bethany W. Kristovich (SBN 241891)
21 bethany.kristovich@mto.com
22 John M. Gildersleeve (SBN 284618)
23 john.gildersleeve@mto.com
24 MUNGER, TOLLES & OLSON LLP
25 350 South Grand Avenue, 50th Floor
26 Los Angeles, CA 90071-3426
27 Telephone: (213) 683-9100
28 Facsimile: (213) 687-3702

Attorneys for Defendant Juul Labs, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2021, I electronically served the foregoing Motion on all counsel of record in this action using the CM/ECF system.

/s/ Lauren V. Purdy
Lauren V. Purdy

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

IN RE: JUUL LABS, INC., MARKETING SALES
PRACTICE AND PRODUCTS LIABILITY
LITIGATION

3:19-md-02913 (WHO)

Hon. William H. Orrick

*This Document Relates to All Plaintiffs Identified in
Exhibit A*

**JLI'S MOTION TO DISMISS WITHOUT PREJUDICE FOR FAILURE TO SUBMIT
DISCOVERY REQUIRED BY CASE MANAGEMENT ORDER NO. 8**

Case Management Order ("CMO") No. 8 requires that every plaintiff asserting a personal injury or wrongful death claim in a case entered on the MDL 2913 docket submit a substantially complete Plaintiff Fact Sheet ("PFS") within 60 days after the complaint has been entered. (CMO No. 8 § 5 (Docket No. 406).) Numerous plaintiffs did not comply.

Pursuant to Sections 5 and 12 of CMO No. 8, on January 4, 2020, JLI served counsel of record for plaintiffs identified in Exhibit A with a Notice of Overdue Discovery (the "Notice"), identifying their overdue discovery, and notifying them that their cases may be subject to dismissal for failure to comply with the Court's discovery orders. (*Id.* ¶ 12; Affidavit of Lauren V. Purdy ("Aff.") ¶¶ 3-4.)

Plaintiffs identified in the Notice were required to submit a completed PFS on or before February 3, 2021, or risk having their claims dismissed. (CMO No. 8 ¶ 12.) None of the plaintiffs identified in Exhibit A responded to the Notice, and none of the plaintiffs identified in Exhibit A have subsequently produced a Plaintiff Fact Sheet. (Aff. ¶¶ 5-6.)

Pursuant to CMO No. 8, JLI hereby moves to dismiss, without prejudice, the claims of the plaintiffs identified in Exhibit A who have not submitted a completed PFS. Pursuant to CMO No. 8, Plaintiffs subject to the foregoing Motion must file a response no later than **February 19, 2021**, either (a) certifying that the plaintiff has submitted a completed PFS or (b) opposing the Motion for other reasons.

1 Dated: February 5, 2021

/s/ Lauren V. Purdy

2 Lauren V. Purdy, FL Bar 93943
3 Gunster, Yoakley & Stewart, P.A.
4 1 Independent Drive, Suite 2300
5 Jacksonville, FL 32202
6 Telephone: (904) 350-7168
7 Facsimile: (904) 354-2170
8 lpurdy@gunster.com
9 (*pro hac vice*)

/s/ Renee D. Smith

7 Renee D. Smith
8 KIRKLAND & ELLIS LLP
9 300 North LaSalle
10 Chicago, IL 60654-3406
11 Telephone: (312) 862-2000
12 Facsimile: (312) 862-2200
13 Renee.Smith@kirkland.com

12 Peter A. Farrell, P.C.
13 KIRKLAND & ELLI LLP
14 1301 Pennsylvania Ave., N.W.
15 Washington, DC 20004
16 Telephone: (202) 389-5000
17 Facsimile: (202) 389-5200
18 Peter.farrell@kirkland.com

16 Gregory P. Stone (SBN 78329)
17 gregory.stone@mto.com
18 Bethany W. Kristovich (SBN 241891)
19 bethany.kristovich@mto.com
20 John M. Gildersleeve (SBN 284618)
21 john.gildersleeve@mto.com
22 MUNGER, TOLLES & OLSON LLP
23 350 South Grand Avenue, 50th Floor
24 Los Angeles, CA 90071-3426
25 Telephone: (213) 683-9100
26 Facsimile: (213) 687-3702

22 *Attorneys for Defendant Juul Labs, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2021, I electronically served the foregoing Motion on all counsel of record in this action using the CM/ECF system.

/s/ Lauren V. Purdy
Lauren V. Purdy